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T.R.A. DOCKET ROOM
August 11, 2003

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VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with
BellSouth Telecommunications, Inc. Pursuant to the
Telecommunications Act of 1996
Docket No. 03-00119

Dear Chairman Tate:

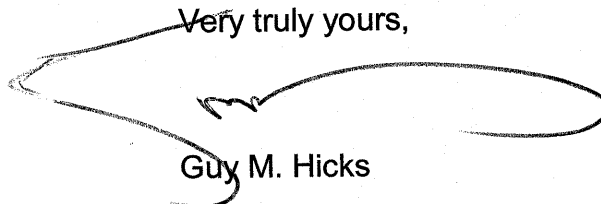
Enclosed are the original and fourteen copies of the following rebuttal testimony
on behalf of BellSouth:

Keith Milner
Kathy Blake

Ron Pate
John Ruscilli.

Copies of the enclosed are being provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

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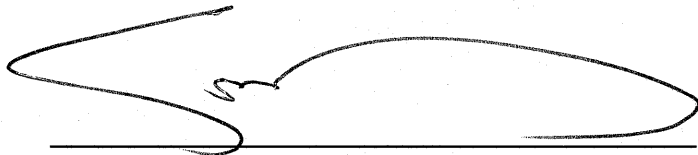
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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF W. KEITH MILNER
BEFORE THE TENNESSEE REGULATORY AUTHORITY
DOCKET NO. 03-00119
August 11, 2003

Q. PLEASE STATE YOUR NAME, YOUR BUSINESS ADDRESS, AND
YOUR POSITION WITH BELLSOUTH TELECOMMUNICATIONS,
INC. ("BELLSOUTH").

A. My name is W. Keith Milner. My business address is 675 West
Peachtree Street, Atlanta, Georgia 30375. I am Assistant Vice
President - Interconnection Operations for BellSouth. I have served in
my present position since February 1996.

Q. ARE YOU THE SAME W. KEITH MILNER WHO EARLIER FILED
DIRECT TESTIMONY IN THIS DOCKET?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY BEING
FILED TODAY?

A. I respond to portions of the direct testimony of Mr. Steve Brownworth
on behalf of ITC^DeltaCom Communications, Inc. ("DeltaCom") with

1 respect to Issues 8 and 21. It is BellSouth's understanding that the
2 parties have reached agreement as to Issues 8(b), 20, 23, 29, and 50.
3 Should these issues not be resolved, BellSouth reserves its right to file
4 supplemental testimony on those issues.

5
6 **Issue 8: (a) Should BellSouth be required to provide an unbundled loop**
7 **using IDLC technology to DeltaCom which will allow DeltaCom to**
8 **provide consumers the same quality of service (i.e., no additional**
9 **analog to digital conversions) as that offered by BellSouth to its**
10 **customers?**

11
12 Q. MR. BROWNORTH, ON PAGES 2-3 OF HIS TESTIMONY, STATES
13 THAT IDLC IS VERY IMPORTANT SUCH "THAT ITC^DELTACOM BE
14 ABLE TO ORDER A LOCAL LOOP ON BEHALF OF THE END USER
15 CUSTOMER AND THAT LOCAL LOOP SHOULD RECEIVE THE
16 SAME QUALITY OF SERVICE THAT BELLSOUTH CURRENTLY
17 OFFERS THAT SAME CUSTOMER. IN OTHER WORDS,
18 BELLSOUTH SHOULD NOT PROVIDE A DEGRADED LOCAL LOOP
19 TO ITC^DELTACOM." PLEASE COMMENT.

20
21 A. BellSouth does not provide degraded local loop facilities to any
22 Competitive Local Exchange Carrier ("CLEC"), including DeltaCom.
23 When a CLEC such as DeltaCom orders a voice grade unbundled loop
24 from BellSouth, BellSouth provides a loop with technical characteristics
25 suitable for voice grade services. Loops provided over IDLC are

1 integrated into BellSouth's switch rather than being run through de-
2 multiplexing equipment referred to as Central Office Terminals
3 ("COTs"). Therefore, when a CLEC obtains a customer currently
4 served by IDLC, it is necessary to provide a non-integrated facility (for
5 example, a copper loop or a loop served by Universal Digital Loop
6 Carrier ("UDLC")) to serve the customer. Because IDLC loops are
7 integrated directly into the central office switch, BellSouth must take
8 special measures to remove the switching functionality in order to
9 provision the desired loop to the requesting CLEC. As I stated in my
10 direct testimony, BellSouth has eight (8) alternatives for providing this
11 non-integrated unbundled loop facility that are currently used by
12 BellSouth when it is necessary to convert an IDLC loop to an
13 unbundled loop facility. All eight (8) alternatives provide unbundled
14 loops suitable for voice grade services. If DeltaCom wants a loop with
15 particular transmission standards (that is, different from or higher than
16 voice grade), DeltaCom should order such a loop. If BellSouth is
17 unable to offer a loop that meets DeltaCom's requirements, DeltaCom
18 should place a New Business Request ("NBR") with BellSouth for the
19 development of such a loop.

20
21 The eight (8) alternatives for giving a CLEC access to loops served by
22 IDLC as discussed in my direct testimony are listed in order of
23 complexity, time, and cost to implement. The simplest is listed first and
24 the most complex, lengthy, and costly to implement listed last. Also,
25 Alternative 1 and the copper loop solution of Alternative 3 do not add

1 additional Analog to Digital conversions; which would appear to
2 alleviate DeltaCom's primary concern. When a CLEC orders a loop,
3 BellSouth delivers that loop to the specifications ordered by the CLEC.

4
5 Q. HAS THE FCC ADDRESSED THESE EIGHT (8) ALTERNATIVES?

6
7 Yes. To reiterate from my direct testimony, the sufficiency of these
8 eight (8) alternatives was an issue in BellSouth's Section 271
9 proceedings before the nine State Commissions in BellSouth's region
10 as well as the Section 271 proceedings before the Federal
11 Communications Commission ("FCC") as BellSouth sought in-region
12 interLATA long distance authority. All nine states and the FCC
13 affirmed that BellSouth provides unbundled loops to CLECs on a
14 nondiscriminatory basis, including those loops served by IDLC
15 equipment. The Tennessee Regulatory Authority ("TRA") made such a
16 finding in Docket No. 97-00309. Both the FCC and TRA findings were
17 specifically on point and both were made subsequent to the very
18 general FCC language relied upon by Mr. Brownworth at page 4 of his
19 testimony to support DeltaCom's position.

20
21 Q. ON PAGES 3-4 OF HIS TESTIMONY, MR. BROWNORTH STATES
22 THAT NO NEW BUSINESS REQUEST SHOULD BE REQUIRED
23 BECAUSE OF DELTACOM'S WORKING WITH BELL SOUTH ON
24 IMPLEMENTATION OF LANGUAGE INTO LOCAL SERVICE
25 ORDERS CONCERNING "NO ADDITIONAL A TO D

1 CONVERSIONS." PLEASE RESPOND.

2

3 A. I disagree with Mr. Brownworth's conclusion. It appears to me that Mr.

4 Brownworth has overlooked the technical issues involved in

5 accomplishing what DeltaCom wants. As I discussed in detail in my

6 direct testimony, BellSouth agreed to work cooperatively with

7 DeltaCom to explore some technical possibilities in an attempt to

8 minimize or eliminate the need for additional Analog to Digital

9 conversions. Unfortunately, those efforts were unsuccessful owing to

10 no shortcoming on either BellSouth's or DeltaCom's part. To my

11 knowledge, there simply is no technically feasible way to accomplish

12 what DeltaCom is asking. Further, DeltaCom has proposed no

13 technical alternative beyond those that BellSouth offers to CLECs and

14 which have already been tested. Mr. Brownworth seems to suggest

15 that by agreeing to make good faith efforts to explore other alternatives

16 in those technical trials, BellSouth has somehow waived the New

17 Business Request process. BellSouth denies that it told or implied to

18 DeltaCom that BellSouth's participation in technical trials would be

19 used in lieu of the New Business Request process.

20

21 BellSouth provides DeltaCom with unbundled loops (whether on so-

22 called UDLC or other technology) that meet the technical transmission

23 requirements for voice grade loops. If DeltaCom wishes a loop with

24 different or more stringent technical characteristics than the loops

25 BellSouth currently offers, DeltaCom should request such a loop via

1 the New Business Request process.

2

3 Q. HOW DOES THE NEW BUSINESS REQUEST PROCESS DIFFER
4 FROM THE TECHNICAL TRIALS YOU JUST DESCRIBED, AND
5 WHY SHOULD DELTACOM GO THROUGH THIS PROCESS AFTER
6 IT HAS PARTICIPATED IN THOSE TRIALS?

7

8 A. The New Business Request process is available should DeltaCom
9 discover some new way of provisioning loops that does not require
10 additional Analog to Digital conversions.

11

12 Q. ON PAGE 3 OF MR. BROWNORTH'S TESTIMONY, HE STATES
13 THAT THE TRA HAS RULED ON THE ISSUE OF ANALOG TO
14 DIGITAL CONVERSIONS ASSOCIATED WITH IDLC IN THE LAST
15 BELLSOUTH/DELTACOM ARBITRATION. PLEASE RESPOND.

16

17 A. In the previous BellSouth/DeltaCom Arbitration, the TRA issued an
18 Interim Order of Arbitration which concluded that "BellSouth shall
19 provide IDLC to DeltaCom in serving areas where IDLC is available to
20 BellSouth customers consistent with the Authority's decision in Docket
21 No. 97-01262."¹

22

23 The decision by the TRA In Docket No. 97-01262 stated that
24 "In its Interim Order, the Authority found that the CLECs should receive
25 nondiscriminatory access to local loops that are functionally equivalent

¹ Docket No. 99-00430, (August 11, 2000), p. 25.

1 to loops used by BellSouth to serve its own customers. In light of the
2 Eighth Circuit Court decision that ILECs did not have to combine
3 elements, the Authority concluded that existing customers served by
4 IDLC must continue to receive the same level of service and
5 performance when migrating to a competitive carrier. The Authority
6 stated that an unbundled loop of this type should deliver a digital signal
7 to a CLEC that is functionally equivalent to the signal that is delivered
8 to a switch when IDLC is employed. The Authority further stated that
9 no additional digital to analog or analog to digital conversions should
10 occur."²

11
12 In my opinion, BellSouth has met and will continue to meet the
13 requirements of the TRA's Orders. BellSouth has and will continue to
14 provide nondiscriminatory access to all its loops on an unbundled basis
15 including those loops served by IDLC equipment. As I mentioned
16 earlier, some of the eight alternatives provide no additional analog to
17 digital conversions while some other of those alternatives unavoidably
18 add analog to digital conversions. At present, there simply is no
19 technical solution to this situation.

20
21 **Issue 21: Dark Fiber Availability**

22 **Does BellSouth have to make available to DeltaCom dark fiber loops**
23 **and transport at any technically feasible point?**

24
25 **Q. MR. BROWNORTH CONTENDS, ON PAGES 8-9 OF HIS**

² Docket No. 97-01262, (November 3, 1999), p. 19.

1 TESTIMONY, THAT DELTACOM SHOULD BE ABLE TO ACCESS
2 DARK FIBER AT AREAS OTHER THAN THE COLLOCATION SITE,
3 AND HE CONTENDS THAT THIS IS CONSISTENT WITH ANY
4 TECHNICALLY FEASIBLE POINT. PLEASE COMMENT.
5

6 A. DeltaCom's proposal to be able to access dark fiber at areas other
7 than the collocation site completely ignores the definitions of loops and
8 transport established under the FCC's rules and would result in
9 creation of a new unbundled network element ("UNE") *from* whatever
10 point DeltaCom wants to access it *to* whatever point Deltacom wants to
11 access it. In effect, DeltaCom is inviting the TRA to establish a new
12 UNE at the same time that the FCC is expected to issue guidance to
13 the states in its Triennial Review proceeding assessing whether
14 existing UNEs meet the "necessary and impair" standard under the
15 federal Act. BellSouth has no obligation to create new UNEs. Instead,
16 BellSouth's obligation is to provide access to UNEs as they exist within
17 its network. The parties may mutually agree to some other access
18 point; however, DeltaCom apparently wants to be in the position that it
19 can dictate when and where the access will take place between
20 DeltaCom's network and BellSouth's network despite careful FCC
21 rulemaking that standardizes how and where such network access to
22 UNEs takes place. 47 C.F.R. 51.319 (a)(1); 47 C.F.R. 51.319 (d)(1).
23

24 Q. IN TESTIMONY, MR. BROWNORTH REFERS TO DECISIONS BY
25 THE CALIFORNIA AND TEXAS COMMISSIONS. DO YOU AGREE

1 THAT THOSE ORDERS REQUIRE THE ACTIONS THAT DELTACOM
2 ADVOCATES?

3
4 A. No. First, the issue before the California Public Utilities Commission
5 ("PUC") dealt with whether fiber strands that are "un-terminated" are
6 the subject of dark fiber unbundling. BellSouth has made no claim that
7 unterminated fiber strands are not subject to unbundling. BellSouth's
8 disagreement with DeltaCom stems from BellSouth's interpretation of
9 the contexts in which dark fiber must be provided. BellSouth believes
10 its obligations to provide dark fiber are limited to instances where fiber
11 optic cable is used for unbundled loops, unbundled dedicated
12 transport, and unbundled sub-loops as the FCC has defined those
13 terms. DeltaCom seeks to expand that list by seeking to have
14 BellSouth splice new or different paths than are used for loops, sub-
15 loops, or dedicated transport.

16
17 Q. PLEASE COMMENT ON THE TEXAS PUBLIC UTILITY
18 COMMISSION'S ORDERS REFERRED TO IN MR.
19 BROWNORTH'S TESTIMONY.

20
21 A. In Docket Number 23396, Issue DPL 38, the Texas PUC addressed
22 whether Southwestern Bell Telephone ("SWBT") must splice fiber
23 strands for CoServ L.L.C ("CoServ"). On page 114 of the Order, the
24 Arbitrators stated "Regarding the issue of splicing, the Arbitrators
25 disagree with CoServ's request to seek broad rights to splicing.

1 Splicing, as requested by CoServ, creates the risk of impairment to the
2 telecommunications services of others since the activity risks cutting lit
3 fiber in use by others.”
4

5 In Section 13.1.1 (also on page 114), the Arbitrators conclude “Dark
6 Fiber is fiber that is spliced in all segments from end to end and would
7 provide continuity or ‘light’ end to end.” Thus, in my opinion, the
8 Arbitrator’s Order in Docket 23396 does not require an incumbent LEC
9 to open splice cases and create new or different arrangements as
10 DeltaCom proposes.
11

12 Q. PLEASE COMMENT ON THE TEXAS PUC’S ORDER IN DOCKET
13 NUMBER 25188, ISSUE DPL 45.
14

15 A. In this arbitration, El Paso Networks, L.L.C (“EPN”) sought a
16 requirement that SWBT splice fiber strands in order to provide end-to-
17 end continuity on a requested route. In my opinion, the Arbitrators
18 reached a conflicting conclusion to their finding in the CoServ docket
19 and did not resolve that conflict by declaring their intent to supercede
20 related findings in the CoServ arbitration. More importantly, the FCC
21 specifically found in the context of dark fiber used for sub-loop
22 elements that “An accessible terminal is any point on the loop where
23 technicians can access the wire or fiber within the cable without
24 removing a splice case to reach the wire or fiber within.” C.F.R
25 51.319(a)(2). Thus, in my view, the FCC’s Rules do not require

1 BellSouth to open splice cases and splice or rearrange fiber optic cable
2 strands as DeltaCom proposes.

3

4 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

5

6 A. Yes.